IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.11.2022

CORAM :

THE HONOURABLE MR. JUSTICE M. DHANDAPANI

W.P. No.31052 of 2022
and
W.M.P.No.30452 of 2022

1. A.Loganathan
2. M.Suresh
3. M.Neelaveni ... Petitioners

Vs.

1. The District Collector,
   Namakkal District,
   Namakkal.

2. The District Revenue Officer,
   Namakkal District,
   Namakkal.

3. The Revenue Divisional Officer,
   Tiruchengode,
   Namakkal District.

4. The Revenue Tahsildar,
   Komarapalayam Taluk,
   Namakkal District.

5. Shanmugam ... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus calling for the records relating to the impugned order made in Oo.Mu.No.2182/2022/U, dated

22.09.2022 passed by the third respondent, quash the same and consequently direct the respondents 3 and 4 to grant patta to the petitioners in respect of 21 cents each comprised in S.F.No.73/2E, Kokkarayanpettai Village, Komarapalayam Taluk, Namakkal District.

For Petitioners : Mr.N.Manoharan

For R1 to R4 : Mr.U.Bharanidharan
Additional Government Pleader

ORDER

This Writ Petition has been filed seeking issuance of a Writ of Certiorarified Mandamus to call for the records relating to the impugned order made in Oo.Mu.No.2182/2022/U, dated 22.09.2022 passed by the third respondent, quash the same and consequently direct the respondents 3 and 4 to grant patta to the petitioners in respect of 21 cents each comprised in S.F.No.73/2E, Kokkarayanpettai Village, Komarapalayam Taluk, Namakkal District.

2. Since no adverse order is being passed against the fifth respondent/private respondent, notice to the private respondent is dispensed with.

3. The case of the petitioners is that, originally the disputed property comprised in S.F.No.73/2, of an extent of 3.18 acres in "Kannakkan Kattu

Punjai" stood in the name of one Ammasai. The said Ammasai for himself and on behalf of his minor sons had executed a Mortgage Deed, dated 22.04.1953, vide Doc.No.894 of 1953 to one Perumal Gounder. In order to discharge the said mortgage debt, the said Ammasai and his sons sold the aforesaid property to one Muthu gounder under a Sale Deed, dated 02.06.1958. Thereafter, the said Muthu gounder sold the property to one Sahina Bibi by virtue of the Sale deeds, dated 22.03.1960, 04.09.1961, 12.07.1962 and 07.06.1963 respectively. The said purchaser Sahina Bibi had executed a Settlement Deed, dated 16.07.1966 to her three minor sons. One of the settlee sold his portion to one Sadiq Batcha under a sale deed, dated 28.02.1986 and the other two settlees sold their subject matter of 84 cents in S.F.No.73/2 to one M.Mani under a sale deed, dated 13.02.1992. Thereafter, the said Mani had mortgaged the aforesaid property and to discharge the said loan amount, he sold the property to one P.Chinnusamy and three others under a sale deed, dated 27.10.2006. Further, the said purchaser P.Chinnusamy and three others had executed a sale deed, dated 26.02.2020 to one S.Arul. The said Arul had executed three sale deeds in favour of the petitioners. Subsequent to the execution of the said deeds, the petitioners are in possession and enjoyment of the respective 21 cents each in S.F.No.73/2E. While so, the fifth respondent claiming to be a grandson of said Ammasai had made a petition before the fourth respondent dated 16.06.2016, seeking to include his deceased grandfather's name in the patta in respect of the aforesaid property. The fourth respondent had verified the records and submitted a report to the third respondent, pursuant to which, the third respondent has conducted a detailed enquiry and passed an order dated 05.07.2018, stating that the subject properties are not panjami lands. Contrary to the condition, several alienations were made in favour of various persons. Against this, the fifth respondent filed an appeal dated 07.09.2018 before the second respondent/District Revenue Officer, and the second respondent also confirmed the order passed by the third respondent on 10.10.2019. Again, the fifth respondent made an application before the second respondent for police protection to secure the said property, wherein the Revenue Officials were directed to approach appropriate Civil Court to agitate their grievances. Therefore, the fifth respondent made a objection letter/application dated 23.11.2020 before the Sub-Registrar, Palliapalayam for cancellation of documents in respect of the subject property, and the said application was rejected on 19.03.2021, with a direction to the fifth respondent to approach the Civil Court. However, without challenging all the above orders, again the fifth respondent initiated 145 Cr.P.C proceedings before the third respondent/Revenue Divisional Officer and the third respondent has directed the fifth respondent to approach the Civil Court vide order dated 23.11.2021 and confirmed the property owned by the petitioners and directed the parties to maintain "Status Quo". Therefore, the petitioners made an application before the District Collector during the "Grievances Redressal Day" for mutation of Revenue Records and the said application was forwarded to third respondent. However, the third respondent has rejected the said application on 22.09.2022, and passed the present impugned order. Challenging the same, the petitioners have filed the present Writ Petition.

4. The learned counsel for the petitioners submitted that, though the petitioners claim patta based on the title as per the Tamil Nadu Patta Passbook Act, 1983 (in short, "the Act"), the petitioners have to make application before the fourth respondent/Tahsildar. However, instead of approaching the Tahsildar in terms of Section 10 of the Act, inadvertently, the petitioners approached the third respondent/Revenue Divisional Officer during the Grievances Day. Hence, this Court may set-aside the impugned order passed by the third respondent and permit the petitioners to approach the fourth respondent/Tahsildar in terms of Section 10 of the Act.

5. The learned Additional Government Pleader appearing for the respondents 1 to 4 submitted that, admittedly the application for mutation of Revenue Records would lie only before the fourth respondent/Tahsildar in terms of Section 10 of the Act. However, the petitioners made application before the Appellate Authority erroneously. Meanwhile, the Appellate Authority also entertained the petitioners' application and rejected the same. However, he fairly conceded the stand taken by the learned counsel for the petitioners and submitted that, this Court may pass appropriate orders.

6. Heard the learned counsel for the petitioners as well as the learned Additional Government Pleader appearing for the respondents 1 to 4 and perused the materials available on record.

7. In view of the fair stand taken by the learned counsel on either side, this Court, while setting aside the impugned order, permits the petitioners to file application before the fourth respondent/Tahsildar in terms of Section 10 of the Act within a period of two weeks from the date of receipt of a copy of this order, and if such application is filed, the jurisdictional Tahsildar is directed to consider the same and pass appropriate orders in the light of the earlier orders passed by the authorities. The third respondent/Revenue

Divisional Officer is directed to transfer all the files to the fourth respondent and the petitioners are also directed to make appropriate application before the fourth respondent and the fourth respondent is also directed to pass appropriate orders in the light of the order passed by the first and second respondents.

8. With the above terms, this Writ Petition is allowed. No costs. Consequently, the connected Miscellaneous Petition is closed.

21.11.2022

Index : Yes / No
Speaking order : Yes/ No
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M.DHANDAPANI, J.

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(1/2)

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